

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-HC-2156

UNITED STATES OF AMERICA,)	
)	
v.)	ORDER
)	
GERALD WAYNE TIMMS,)	
Respondent.)	

This matter is before the court on several motions: (1) respondent's 9 January 2009 motion for release; (2) the government's 23 January 2009 motion for stay; and (3) 28 December 2009 and 18 June 2010 motions by respondent's counsel to withdraw. The motions are ripe for disposition.

With regard to respondent's motion for release, the court notes that his release was stayed by the Fourth Circuit pending appeal in Timms v. Johns, No. 10-6496 (4th Cir. Apr. 6, 2010). The instant motion for release is DENIED. With regard to the government's motion to stay, in light of the Supreme Court's opinion in United States v. Comstock, ___ U.S. ___, 130 S. Ct. 1949 (2010), the motion is DENIED. With regard to the motions by counsel to withdraw, the motions indicate that respondent was served with a copy of the motions. Respondent has not filed any response, and the time within which to do so has run. The government filed a response to the 18 June 2010 motion to withdraw, indicating it has no objection to the motion. The motion also indicates that "Office of the Federal Public Defender has identified qualified substitute counsel who is willing to accept an appointment from this Court to represent" the respondent. (6/18/10 Mot. Withdraw at 1.) The motions to withdraw are ALLOWED, and the Federal Public Defender is DIRECTED to refer this case to substitute counsel, who shall enter a Notice of Appearance within five days of the date of this

order.

This 20 July 2010.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge